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Attorneys for Defendant, specially appearing  
BROOKS HENDERSON HADEN

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

IRETA IRBY	)	No. 3:08-c-80004-PJH
	)	
Plaintiff,	)	<b>STIPULATION FOR RELEASE OF</b>
	)	<b>FUNDS HELD BY MARSHAL AND</b>
vs.	)	<b>ORDER THEREON.</b>
	)	
BROOKS HENDERSON HADEN	)	
	)	Hon. Phyllis J. Hamilton
Defendants.	)	
	)	

**STIPULATION**

The parties to this action, through their respective counsel, do hereby stipulate and agree as follows, in reference to the following facts:

1. On January 11, 2008, Irby registered the Texas Judgment in the Northern District of California a second time in Case No. 3:08-mc-80004-PJH ("California Judgment #2"). The case was assigned to the Hon. Phyllis J. Hamilton.
2. Irby caused the Clerk of the Northern District of California to issue a Writ of Execution on the California Judgment #2 on March 3, 2008; and an Earnings Withholding Order was issued on March 7, 2008.
3. Haden sought a TRO against enforcement of the judgment on an ex parte basis and filed his Application For Temporary Restraining Order To Prevent Garnishment Of Wages Under

1 Expired Judgment and Application For Order Vacating January 11, 2008 Registration Of Foreign  
2 Judgment. Haden argued that Irby allowed her California Judgment #1 based upon the Texas  
3 Judgment to expire, and consequently, Irby was not permitted another California judgment (California  
4 Judgment #2) on the same claim through her registration of the Texas judgment for a second time.  
5 Judge Hamilton did not issue the TRO, but did order that all funds recovered by garnishment from  
6 Mechanics Bank would be held by the U.S. Marshal pending the outcome of a noticed motion on the  
7 question of the enforceability of the California Judgment #2.

8 4. The Parties subsequently briefed the issue and a hearing was held on May 14,  
9 2008.

10 5. On June 25, 2008, Judge Hamilton issued her Order Denying Motion To Vacate  
11 Foreign Judgment. In this Order, the Court declined to stay enforcement of Irby's California Judgment  
12 #2 against Haden. The Court, however, left intact its prior order directing the U.S. Marshal to hold all  
13 funds garnished from Haden, pending any appeal Haden wished to take. On July 9, 2008, Judge  
14 Hamilton issued her Amendment To Order Dated June 25, 2008.

15 6. On July 23, 2008, Haden appealed the entry of the July 9, 2008 and July 25,  
16 2008 orders to the United States Court of Appeals for the Ninth Circuit, Appeal No. 08-16809  
17 ("Appeal").

18 7. Haden has since paid Irby the court costs awarded to her in the Adversary  
19 Judgment and Irby has provided Haden with Release of Lien documents to record in each county in  
20 which she had recorded an abstract of the Adversary Judgment.

21 8. Irby has represented to Haden that she did not record any abstracts in any  
22 county in California with respect to either California Judgment #1 nor California Judgment #2.

23 9. Counsel for Irby is informed by the U.S. Marshal that the Marshal is holding net  
24 funds on account from the garnishment of Haden's wages from Mechanics Bank totaling \$24,675.00.

25 10. Commencing on January 23, 2009, the Parties participated in a mediation before  
26 Ninth Circuit Mediator Lisa J. Evans.

27 11. The parties have reached agreement to settle this matter and all related matters.

1 As a term of the settlement, the parties agreed that all funds that have been collected and held by the  
2 U.S. Marshal shall be released to plaintiff Ireta Irby.

3 **NOW THEREFORE**, it is agreed that the writ of garnishment and levy thereon is  
4 discharged; and the U.S. Marshal shall release to counsel for Ireta Irby the sum of \$24,675.00 that it is  
5 holding in this matter.

6 **SO STIPULATED.**

7 DATED: March 30, 2009.

SEVERSON & WERSON, A Professional Corporation

8  
9 BY: /s/ Rhonda L. Nelson #116043  
10 RHONDA L. NELSON  
Attorneys for Plaintiff  
11 IRETA IRBY

12 DATED: March 30, 2009.

BARTLETT, LEADER-PICONE & YOUNG, LLP

13  
14 BY: /s/ Malcolm Leader-Picone #104620  
MALCOLM LEADER-PICONE  
15 Attorneys for Defendant  
BROOKS HENDERSON HADEN  
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**ORDER**

Based upon the foregoing Stipulation of the parties, it is **SO ORDERED**.

DATED: 4/1/09

The Honorable Phyllis J. Hamilton  
U.S. District Court Judge



## PROOF OF SERVICE

I, Malcolm Leader-Picone, declare that:

I am employed in the County of Alameda, California. I am over the age of eighteen years and not a party to the within action. My business address is 2201 Broadway, Suite 803 Oakland, CA 94612. On March 30, 2009, I served the following document(s) entitled:

**STIPULATION FOR RELEASE OF FUNDS HELD BY MARSHAL AND ORDER THEREON**

upon the following person(s) in said action by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid in the United States mail at Oakland, California addressed as follows:

<p><b><u>Counsel for Plaintiff</u></b>          Rhonda I. Nelson, Esq.          Severson &amp; Werson          One Embarcadero Center, Suite 2600          San Francisco, CA 94111</p> <p>Telephone: 415-398-3344          Facsimile: 415-956-0439          Email: <a href="mailto:rln@severson.com">rln@severson.com</a></p>	<p><b><u>Chambers Copy</u></b>          Hon. Phyllis J. Hamilton          U.S. District Court Judge          U.S. District Court, Crtrm. 3, 17th Floor          U.S. Courthouse/Phillip Burton Building          450 Golden Gate Avenue          San Francisco, CA 94102</p>
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at Oakland, California, on March 30, 2009.

**/s/ Malcolm Leader-Picone #104620**  
Malcolm Leader-Picone